



**CITY OF SUNNYVALE
REPORT
Planning Commission**

July 11, 2005

SUBJECT: **2005-0464:** Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for a Canary Island Palm Tree in the front yard. The property is located at **810 Devonshire Way** in an R-1 (Low-Density Residential) Zoning District.

REPORT IN BRIEF

Existing Site Conditions Single Family Residence. The subject Canary Island Palm is located in the front patio area

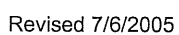
Surrounding Land Uses

North	Single Family Residential
South	Single Family Residential
East	Single Family Residential (across Devonshire Wy.)
West	Single Family Residential

Issues Tree Removal Permit - Appeal

Environmental Status A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny the appeal and uphold the Decision of the Community Development Director.



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	---
Zoning District	R-0	Same	---
Lot Size (s.f.)	6,820	Same	6,000 min.

ANALYSIS**Description of Proposed Project**

On May 13, 2005, the property owner requested a Tree Removal Permit for the removal of the Canary Island Palm located in the front patio area. On May 17, 2005, the City Arborist inspected the tree and recommended denial for the subject tree (see Attachment C, Pictures). Following this recommendation, Planning Division staff visited the site and concurred with the City Arborist's recommendation and notified the applicant of the denial of the Tree Removal Permit (see Attachment D, Permit Letter). The applicant has appealed the denial of the Tree Removal Permit (see Attachment E, Appeal Letter).

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2005-0464	Tree Removal Permit for Canary Island Palm	Staff Review/Denial	5/25/05

Environmental Review

A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 4 Categorical Exemption includes minor alteration of land.

Tree Preservation Ordinance (SMC 19.94)

On December 12, 1991, the Tree Preservation Ordinance was established in order to preserve mature trees of significant size. Chapter 19.94 of the Sunnyvale Municipal Code defines a 'protected tree' as a tree with circumference equal to or greater than 38 inches when measured four feet above the ground. A Tree Removal Permit must be obtained prior to removal of a protected tree from private property in any zoning district. An application to remove a tree may be issued if:

1. The tree is diseased or badly damaged;
2. The tree represents a potential hazard to people, structures or other trees;
3. The tree is in sound condition, but restricts the owner's or the neighbor's ability to enjoy reasonable use or economic potential of the property.

Applicant's Appeal

The applicant's appeal letter notes the following (see Attachment E for Applicant's Appeal Letter):

- Fruit of the tree a choking hazard for children;
- Backyard not available for play area due to pool;
- Tree roots responsible for damaging patio concrete slab and potentially the sewer line also;
- Restricts owners' ability to enjoy reasonable use or economic potential of the property.

Staff Discussion

The City Arborist and the Planning Staff visited the site and determined that the subject tree appears to be healthy, structurally sound and is located about 10 feet away from the residential structure.

Staff examined the issues noted by the applicant (choking hazard, un-useable backyard, and tree roots lifting concrete slab and closing in on sewer line). The palm bears oval shaped berries which are about an inch long. Staff suggested pruning to remove the seed pods to reduce this debris that is of concern (choking) to the applicant. This measure could be adopted as a routine maintenance to address debris concerns. Staff believes that the subject tree adds landscape value to the patio area and makes it more useable. On the issue of tree roots moving concrete slabs, staff notes that many tree roots cause this type of minor damage and that it can be repaired with pavers or similar material that would address the uneven surfaces caused by tree roots. Repairing uneven outdoor surfaces caused by tree roots is considered by staff to be part of routine maintenance and does not warrant tree removal. As noted

in the above discussion, staff was not able to make the findings to warrant the removal of the Palm tree.

In addition, staff notes that other palm trees that grow very tall and have small spreads are typically allowed to be removed as they have significantly reduced landscape value. Although Palm trees are not native to this area, the Tree Ordinance does not differentiate tree types but instead encourages "the diversity of trees that are of economic value to the City..." (SMC 19.94.010 (a))

Expected Impact on the Surroundings: The subject tree, about 30 feet in height and 25 feet in spread, is visible from the street. Removal of the tree would have a detrimental effect on the overall streetscape.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Mailed to eight adjacent residential property owners of the subject site.	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Conclusion

Findings and General Plan Goals: Staff is recommending denial for this project because the Findings (Attachment A) were not made. However, if the Planning Commission is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B).

Conditions of Approval: If the appeal is approved by the Planning Commission, staff is recommending conditions of Approval which are located in Attachment B.

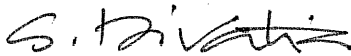
Alternatives

1. Deny the appeal and uphold the denial of the Tree Removal Permit.
2. Grant the appeal and approve the Tree Removal permit subject to the recommended Conditions of Approval.
3. Grant the appeal and approve the Tree Removal Permit subject to modified Conditions of Approval.

Recommendation

Recommend Alternative 1.

Prepared by:



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Project Planner

Reviewed by:



Gerri Caruso
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Photos of Subject Tree
- D. Letter denying the Tree Removal Permit
- E. Letter of Appeal from the Applicant and Site Plan

ATTACHMENT A:

RECOMMENDED FINDINGS

Recommended Findings – Tree Removal Permit

In order to grant a Tree Removal Permit, one or more of the following findings must be met. Staff was unable to make these required findings.

1. The tree is diseased or badly damaged.

The subject tree is not diseased or damaged, and is in good health.

2. The tree represents a potential hazard to people, structures or other trees.

City Staff inspected the site and the subject tree. The tree is located about ten feet away from the house and staff observed no obvious signs of damage to the house that may be caused by the tree. The fruit, which is similar to a berry, is about an inch in size. The City Arborist recommends routine pruning of the seed pods to reduce this debris that is of concern to the applicant.

3. The tree is in basically sound condition, but restricts the owner's ability to enjoy the reasonable use or economic potential of the property, or unreasonably restricts an adjoining property's use or economic potential of the adjoining property. In the event this is the sole basis for the application, the following criteria shall be used to evaluate the application under this subsection:

- a. The necessity of the requested removal to allow construction of improvements such as additions to existing buildings or incidental site amenities or to otherwise allow economic or reasonable enjoyment of property;
- b. The topography of the land and the effect of the requested action on water retention and diversion or increased flow of surface water;
- c. The approximate age of the tree relative to its average life span;
- d. The potential effect of removal on soil erosion and stability where the tree is located;
- e. Current and future visual screening potential;
- f. Any other information the Director of Community Development finds pertinent to the application.

Staff believes that the tree is not restricting reasonable use or economic potential of the property. The tree has a remaining life expectancy of at least another 30-50 years. Staff believes that the subject tree is in good health, is located in a reasonably acceptable location, and has a significant remaining lifespan and merits preservation.

Recommended Conditions of Approval - Special Development Permit /Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. One replacement tree, a minimum of 15 gallon size, shall be planted anywhere on the property or an in-lieu fee of \$210.00 be paid to the City to allow a tree to be planted in a City park or other public property.
2. The replacement tree shall be planted within 90 days of the tree removal date.